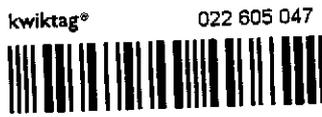


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**THE STATE BAR COURT
HEARING DEPARTMENT - SAN FRANCISCO**

In the Matter of	}	Case No. 03-R-00676-PEM
JACKSON DWIGHT WONG,		DECISION
Petitioner for Reinstatement.		

I. INTRODUCTION

Petitioner **JACKSON DWIGHT WONG** was admitted to the practice of law in California on December 16, 1980, and was a member of the State Bar until his disbarment by the Supreme Court, effective March 16, 1991. At the time of his disbarment, Petitioner had been disciplined on two previous occasions. An additional three pending matters were dismissed in light of Petitioner's disbarment.

Petitioner filed his initial petition for reinstatement on December 4, 2000. By Decision filed January 7, 2002, the State Bar Court Hearing Department denied Petitioner's reinstatement, but ordered, in its Decision, that Petitioner could file a subsequent petition for reinstatement after an additional one year waiting period from the date of the Court's Decision.

This matter now comes before the Court on Petitioner's renewed petition for reinstatement to the practice of law filed by Petitioner on February 18, 2003. Petitioner is represented in the current proceeding by Doron Weinberg, Esq. The Office of Chief Trial Counsel of the State Bar of California ("State Bar") is represented by Deputy Trial Counsel Wonder J. Liang. This matter was

1 submitted for decision after trial on December 4, 2003.

2 The Court finds that Petitioner has clearly and convincingly satisfied the requirements for
3 reinstatement to the practice of law and hereby recommends that he be reinstated to the practice of
4 law in California.

5 **II. FINDINGS OF FACT**

6 This Decision focuses upon Petitioner's conduct following the filing of the Court's January
7 7, 2002, Decision denying his initial reinstatement petition. It is based upon the parties' stipulation
8 of facts, the petition for reinstatement and the evidence and testimony introduced during the trial of
9 this matter. For purposes of brevity, the State Bar Court's findings of fact contained in its January
10 7, 2002, Decision are hereby incorporated by reference in this Decision as if set forth fully herein.
11 A copy of the Court's January 7, 2002, Decision is attached hereto as Attachment A.

12 **A. Petitioner's Background and Conduct Leading to Disbarment**

13 Since the State Bar Court's findings of fact in its January 7, 2002 Decision are incorporated
14 by reference herein and are attached to this Decision, this Court will only briefly summarize here the
15 conduct that led to Petitioner's disbarment.

16 On February 25, 1988, Petitioner entered into a stipulation in State Bar Court Case No. 86-O-
17 18281 for the imposition of a public reproof with conditions. On June 28, 1988, the Review
18 Department adopted the stipulation and imposed the public reproof, effective August 9, 1988.
19 Petitioner's culpability in that matter arose from his failure to adequately communicate with his
20 clients and improper withdrawal from employment in one matter from mid-1985 to early 1986.

21 Thereafter, on August 1, 1989, the State Bar Court filed its decision in State Bar Court Case
22 No. 88-O-12789, finding that Petitioner failed to perform the services for which he was retained and
23 improperly withdrew from employment in an immigration case with serious consequences to his
24 client. On February 28, 1990, the Review Department adopted the hearing panel's findings of fact
25 and conclusions of law and increased the level of recommended discipline, which included an actual
26 suspension of two years. On August 22, 1990, the Supreme Court filed its minute order in Case No.

1 SO15286, adopting the Review Department's recommended discipline.

2 By decision filed August 9, 1990, the State Bar Court recommended in a default proceeding
3 in State Bar Court Case No. 89-O-13073, that Petitioner be disbarred from the practice of law for
4 his misconduct in two client matters, including the misappropriation of more than \$5,000 in one
5 matter and his misrepresentations to his client in the second matter. By minute order filed February
6 14, 1991 in Case No. S018379, the Supreme Court ordered that Petitioner be disbarred from the
7 practice of law in California and ordered him to comply with rule 955 of the California Rules of
8 Court.

9 In light of Petitioner's disbarment, the pending proceedings against him in State Bar Court
10 Case Nos. 89-H-12889, 89-O-10882 and 90-N-18001 were dismissed without prejudice.

11 **B. Petition for Reinstatement Filed December 4, 2000**

12 Petitioner filed his first petition for reinstatement on December 4, 2000. On January 7, 2002,
13 the State Bar Court rendered its decision, finding that Petitioner had not met his heavy burden of
14 demonstrating his rehabilitation by clear and convincing evidence. During his direct testimony at
15 trial in that proceeding, Petitioner claimed that he had not ingested alcohol in almost eleven years.
16 However, on cross examination, one of Petitioner's witnesses testified that Petitioner drank an
17 occasional glass of wine. Following that testimony, Petitioner admitted during his redirect testimony
18 that he drinks a glass of wine on the average of about once per month. The Court concluded that
19 Petitioner's material misrepresentations while testifying at trial seriously undercut his effort to
20 demonstrate his rehabilitation. Specifically, the Court stated as follows (Decision, at p. 14):

21 "As Petitioner himself declares, his prior misconduct stemmed from his addiction to
22 alcohol and cocaine. Thus, his recovery from these addictions is a primary issue in
23 this reinstatement proceeding. While the Court does not conclude that having a drink
24 precludes a determination that a person has successfully recovered from an alcohol
25 addiction, it does find that Petitioner's lack of candor and honesty on this important
26 issue negates a finding of rehabilitation and good moral character. Petitioner violated
27 'the fundamental rule of [legal] ethics – that of common honesty – without which the
28 profession is worse than valueless in the place it holds in the administration of
29 justice.'"

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1 Further, the Court held that, while all of Petitioner's character witnesses credibly attested to
2 Petitioner's rehabilitation and to the profound positive changes that Petitioner has made in his life,
3 the value of their testimony was diminished by the fact that some of them were unaware of the full
4 extent or details of Petitioner's prior misconduct. The Court also concluded that the favorable
5 testimony of Petitioner's character witnesses was rebutted by Petitioner's own lack of candor and
6 honesty at the hearing. (*In the Matter of Ainsworth* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr.
7 894, 900; *In the Matter of Giddens* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 25, 37.)

8 **C. Petitioner's Conduct After the October 2001 Hearing**

9 Petitioner has had two years within which to reflect upon his attempt to mislead the Court
10 at his October 2001 reinstatement hearing regarding his abstinence from alcohol. At the hearing on
11 his current petition, Petitioner did not attempt to rationalize his previous dishonest statements and
12 readily admitted that he has a glass of wine on rare occasions. To date, Petitioner has abstained from
13 all use of drugs since he completed the Merritt-Peralta Institute's 28-day residential treatment
14 program approximately twelve years ago. Petitioner continues to be employed as a paralegal/
15 investigator at the City Attorney's Office and his job performance has been exemplary.

16 **1. Payment of Restitution**

17 Petitioner has made full restitution and has paid all State Bar costs resulting from his prior
18 disciplinary proceedings.

19 **2. Continued Contributions to His Community**

20 Petitioner still serves as an appointed member of the Board of Directors of the Chinatown
21 Economic Resources Development Group and the San Francisco Junior Tennis League, which is a
22 program run by the San Francisco Recreation and Parks Tennis Advisory Board.

23 **3. Failure to Comply with Rule 955, California Rules of Court**

24 In its final disciplinary order filed August 22, 1990, in Case No. S015286 (State Bar Court
25 Case No. 88-O-12789), the Supreme Court ordered Petitioner to comply with the requirements of
26 rule 955 of the California Rules of Court.

1 Likewise, in its disbarment order filed February 14, 1991, in Case No. S018379 (State Bar
2 Court Case No. 89-O-13073), the Supreme Court again ordered Petitioner to comply with rule 955
3 of the California Rules of Court.

4 Petitioner failed to comply with either one of these Supreme Court orders. Following
5 Petitioner's disbarment, the State Bar Court dismissed a pending disciplinary proceeding against
6 Petitioner arising out of his failure to comply with the Supreme Court's August 22, 1990, order.

7 Both of these disciplinary proceedings against Petitioner were default proceedings. In 1990
8 and 1991, Petitioner's cocaine and alcohol abuse was at its height. The intervention conducted by
9 Petitioner's friends occurred in January 1991, only a month prior to the Supreme Court's disbarment
10 order. While the concurrence of these events don't excuse Petitioner's failure to comply with rule
11 955, they tend to indicate that Petitioner's primary focus at that time was on his own substance abuse
12 problems and his recovery from those problems.

13 While Petitioner should have made at least a belated effort to comply with rule 955, it has
14 now been more than thirteen years since the Supreme Court's first order directing him to comply
15 with rule 955. A continued requirement of compliance with rule 955 at this stage would be
16 pointless. Likewise, Petitioner's lack of compliance with rule 955, while serious, should not
17 constitute a permanent bar to reinstatement.

18 **F. Petitioner's Character Witnesses**

19 Petitioner's character witnesses uniformly praised his high ethical and moral values and were
20 aware of his disbarment and prior disciplinary proceedings. Among the witnesses were the
21 following:

22 **1. Cheryl Bregman**

23 Cheryl Bregman is a San Francisco Deputy City Attorney who has been a member of the
24 State Bar since 1995. She and Petitioner are both members of the construction law team in the City
25 Attorney's Office. Ms. Bregman testified that she sees Petitioner at least twice per week and
26 occasionally goes to lunch with him at restaurants where people are drinking. Ms. Bregman testified
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1 that she has never seen Petitioner take a drink. She also testified that Petitioner has never tried to
2 hide the fact that he is a disbarred lawyer recovering from an addiction.

3 Ms. Bregman describes Petitioner's work as excellent. She believes that Petitioner has
4 excellent moral character and strongly endorses his reinstatement to the practice of law.

5 **2. George Wong**

6 Currently, George Wong is the attorney supervisor of the construction litigation group in the
7 San Francisco City Attorney's Office. Mr. Wong is an attorney and has been employed by the City
8 Attorney's Office since June 1977. He has known Petitioner for 30 years and sees him on a daily
9 basis. Wong has worked with Petitioner in the City Attorney's Office since 1996. Wong describes
10 Petitioner as a reliable, dependable and diligent worker who produces excellent work product.

11 By the mid 1980's, Wong began to notice that Petitioner was drinking a lot and it later
12 occurred to him that Petitioner was using cocaine. It appeared to Wong that Petitioner was on a
13 downhill spiral. Wong was one of Petitioner's friends who participated in an intervention aimed at
14 getting Petitioner into a residential treatment program. The intervention was successful in that
15 Petitioner entered the 28-day residential treatment program at Merritt-Peralta Institute in Oakland
16 in 1991.

17 After Petitioner's release from the residential treatment program, Wong saw him on a daily
18 basis and noticed many significant positive changes in Petitioner's behavior. Wong noted that
19 Petitioner no longer disappeared for days at time and no longer suffered from severe mood swings.
20 He also observed that Petitioner became a devoted parent, helping his young son to overcome his
21 obesity and language processing disability. Since 1991, Wong has never seen or heard that Petitioner
22 was under the influence of drugs or alcohol. Moreover, he never personally seen Petitioner take a
23 drink of alcohol.

24 In Wong's opinion, Petitioner is a very decent and caring human being of good moral
25 character. He supports Petitioner's reinstatement without reservation.

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1 **3. William Verelley**

2 William Verelley is a self-employed architect and construction design manager from Mill
3 Valley, California. Verelley is also recovering from chemical and alcohol abuse and met Petitioner
4 while they were both in group therapy in 1991. Verelley became Petitioner's AA sponsor and they
5 subsequently developed a friendship. Verelley and Petitioner talk on the telephone with one another
6 about once per week.

7 Verelley acknowledged that the hardline approach to recovery from substance abuse
8 problems is complete abstinence and that even the occasional use of alcohol undercuts the quality
9 of the recovery. Nevertheless, Verelley knows Petitioner very well and believes that he is doing very
10 well in recovery and has no concerns or doubts about its continuation.

11 Verelley has no reservations about Petitioner's integrity and honesty. He believes that
12 Petitioner is a person of good moral character and that he should be reinstated to the practice of law.

13 **4. Mabel Teng**

14 Mabel Tang is the current Assessor for the City and County of San Francisco. She is aware
15 that Petitioner was previously denied reinstatement because he lied in his testimony in that
16 proceeding regarding his use of alcohol. However, she still believes Petitioner is an honest person
17 and has no reservations about his moral character. She strongly supports Petitioner's reinstatement
18 to the practice of law.

19 **5. Paul Duncan**

20 Paul Duncan is a senior litigation paralegal on the construction team at Farella, Braun and
21 Martel ("Farella"). He has been employed at Farella for 24 years. Duncan has known Petitioner for
22 approximately one year as they have worked closely on matters in which Farella is co-counsel with
23 the City Attorney's Office. Duncan's only relationship with Petitioner is professional. He is aware
24 that Petitioner is a recovering addict who was disbarred due to his addiction. Duncan testified that
25 Petitioner has done an excellent job in compiling and indexing documents for a very complex case
26 and that he is very reliable.

1 Duncan is aware that Petitioner was disbarred and that his previous reinstatement petition
2 was denied because he had lied about his drinking. Nevertheless, Duncan believes that Petitioner
3 is an honest person.

4 **6. Louise Simpson**

5 Louise Simpson has been a Deputy City Attorney since 1989 and has been a member of the
6 State Bar since 1984. She is a member of the City Attorney's construction law team. Since 1995
7 or 1996, Petitioner has provided paralegal support to Ms. Simpson. She sees him between three and
8 five days per week. According to Ms. Simpson, Petitioner is the most reliable paralegal in the City
9 Attorney's Office. He is responsible and always finishes his assignments. His work product is
10 exactly what Ms. Simpson needs.

11 Although Ms. Simpson is aware that Petitioner was disbarred before he began working for
12 the City Attorney's Office and that his previous reinstatement petition was denied, she believes that
13 he has integrity and is a great person. Ms. Simpson believes that Petitioner should be reinstated to
14 the practice of law.

15 **G. State Bar Expert**

16 The State Bar contends that Petitioner has failed to establish, by clear and convincing
17 evidence, that he is rehabilitated and that he has the present moral qualifications for reinstatement.
18 In support of its contention, the State Bar presented the testimony of Dr. David E. Smith.

19 Dr. Smith is the founder of the Haight-Ashbury Free Clinic and is a recognized expert in the
20 field of addiction and clinical toxicology. Dr. Smith has been a member of Alcoholics Anonymous
21 ("AA") since 1966.

22 AA is a 12-step program. According to Dr. Smith, the chief tenet of AA and other 12-step
23 programs is that total abstinence is the only way to sobriety. Dr. Smith testified that all 12-step
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1 programs define a "state of sobriety" as having no alcohol.¹ AA also defines "recovery" as learning
2 to live a comfortable and responsible life without the use of alcohol. Dr. Smith acknowledged,
3 however, that there are other credible philosophies of alcohol abuse treatment, including controlled
4 alcohol use and that the 12-step program is not the only alternative.

5 After Petitioner agreed to an evaluation, Dr. Smith was contacted by the State Bar to perform
6 an evaluation of the quality of Petitioner's recovery. Dr. Smith and Petitioner met for an initial
7 evaluation in July 2003, and Petitioner agreed to enter Dr. Smith's monitoring program. Within
8 days of the initial evaluation meeting, a random drug/alcohol test was administered and the results
9 were negative for the presence of any controlled substances and alcohol. In September 2003,
10 Petitioner decided, after consultation with his counsel, that he was not going to continue with the
11 monitoring program; and he was consequently terminated from the program. It appears that the State
12 Bar and Petitioner could not agree on the purpose of the evaluation. The State Bar wanted the
13 evaluation to measure the quality of Petitioner's recovery, while Petitioner wanted the evaluation to
14 deal with the issue of whether alcohol impaired Petitioner's ability to function in the workplace.

15 Dr. Smith admits that he brought to the evaluation his own definition of recovery. For Dr.
16 Smith, "recovery" is a specific term relating to abstinence from alcohol. He does not believe that
17 one can be in recovery and participate in the controlled consumption of alcohol.

18 **H. Present Learning and Ability in the General Law**

19 At the hearing, the parties stipulated that Petitioner possesses present learning and ability in
20 the general law.

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24 ¹ According to AA, "sobriety" is defined as learning to live a comfortable and responsible life
25 without the use of psycho-active drugs and it starts with the first step of surrender that you cannot drink.
26 However, this definition of "sober" or "sobriety" is not how the term is defined in the dictionary.
27 Webster's Ninth New Collegiate Dictionary defines "sober" as follows: "1 a: sparing in the use of food
28 and drink; ABSEMIIOUS b: not addicted to intoxicating drink c: not drunk." This definition of "sober"
dates back to the 14th century.

1 Cal.3d 1061, 1068-1069.) Proof of that rehabilitation must include a lengthy period of unblemished
2 and exemplary conduct. (*In re Menna, supra*, 11 Cal.4th at p. 989.)

3 After careful consideration of the facts presented in the instant proceeding, the Court finds
4 that Petitioner has proven, by clear and convincing evidence, his overall rehabilitation and the
5 requisite good moral character for reinstatement to the practice of law. The Court has examined
6 Petitioner's evidence in light of the misconduct which lead to his disbarment. (*Tardiff v. State Bar*
7 (1980) 27 Cal.3d 395, 403.)

8 Petitioner began to use cocaine and alcohol extensively during the mid-1980's. He has
9 always maintained that his abuse of cocaine was the more problematic than his abuse of alcohol.
10 By the late 1980's and early 1990's, Petitioner's cocaine and alcohol abuse had seriously affected his
11 ability to practice law. In 1988, Petitioner entered into a stipulation recommending a public reproof.
12 By 1991, Petitioner had five additional disciplinary matters, three of which were dismissed when he
13 was disbarred in 1991. After his public reproof, Respondent failed to participate in the subsequent
14 proceedings because he had become dysfunctional due to his substance abuse problem.

15 In January 1991, close friends of Petitioner conducted an intervention; as a result, Petitioner
16 entered a 28-day residential treatment program at Merritt-Peralta Institute in Oakland. After
17 completing the residential program at Merritt-Peralta, Petitioner entered their aftercare program,
18 went into individual counseling for five years with John V. Platania, Ph.D. and participated in the
19 Other Bar and AA.²

20 Petitioner has not used cocaine since 1991. As to his use of alcohol, Petitioner began to drink
21 wine on rare occasions about five years ago. He began to drink wine on these rare occasions because
22 he did not believe that wine compromised his ability to maintain his sobriety or to stay clean from
23 drug use. Petitioner's position is buttressed by the fact that he has neither begun to drink excessively
24 nor returned to the use of cocaine or other illegal substance. Moreover, Petitioner's psychologist,
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26 ² Petitioner testified that he attended AA and Other Bar meetings between five and ten times per
27 week for a period of five years.

1 Dr. Platania, testified that Petitioner's trigger drug was cocaine, not alcohol. Dr. Platania believes
2 that the critical element in determining whether Petitioner's occasional glass of wine will lead to a
3 return of substance abuse is Petitioner's trigger drug or drug of choice. While Dr. Platania believes
4 that abstinence is the safest way to avoid problems of substance abuse, he has no reservations about
5 Petitioner's ability to remain clean and sober (in the dictionary sense).

6 The State Bar's addiction expert, Dr. David E. Smith, acknowledged that there is a whole
7 body of psychological theory that challenges the theory that abstinence is the way to treat alcoholism.
8 Dr. Smith also testified that Petitioner's present lifestyle is inconsistent with being in relapse. After
9 testifying that this was "a subtle case," Dr. Smith was given the following hypothetical in which
10 Petitioner was the obvious subject:

11 "Q: Imagine a professional person who abused alcohol and cocaine for several
12 years ending in 1991, went into a residential recovery program, came out of
13 that program and participated in aftercare and participated in AA for years
14 and then went to the Other Bar sporadically and has not touched cocaine
15 since entering the residential program and has successfully raised a family,
16 including being a single father raising a boy between 4 and 14, who is now
17 16, adopted another child as a single parent – now four – and has taken his
18 mother into his home and because she is elderly and medically needy, now
19 takes care of her, has worked for more than several years in a responsible job
20 in an office setting with numerous co-workers, all of whom in a position to
21 judge his daily work – all of whom find him unfailingly responsible and
22 reliable and he devotes a number of hours to the community, including being
23 a member of the Drug Abuse Advisory Council. Does that person seem to be
24 in successful recovery?

19 A: Two separate issues – would think that the individual is doing well – virtually
impossible to be doing that well and be in relapse.

20 Q: And add to those facts one additional fact – that approximately five years ago,
21 that individual decided that he could, several times a year, have a glass of
22 wine. Would that change your opinion about his recovery?

22 A: No opinion because I do not believe in controlled drinking, but I would like to
23 congratulate the person for stabilizing his life. As far as I can go with that."

24 This Court accepts that Petitioner has not used cocaine since 1991 and that his occasional use
25 of alcohol is not an indication that he has failed to maintain sobriety for the last twelve years.

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1 Petitioner's rehabilitation and good moral character has also been established in several other
2 areas. "Post misconduct pro bono work and community service are factors evidencing rehabilitation
3 and present moral qualifications." (*In the Matter of Miller* (Review Dept. 1993) 2 Cal. State Bar Ct.
4 Rptr. 423, 430.) Petitioner has devoted significant time to volunteering services to his community.
5 Since his reinstatement hearing in October 2001, Petitioner has remained a member of the Board of
6 Directors of the Chinatown Economic Resources Development Group and of the San Francisco
7 Junior Tennis League.

8 Petitioner's character witnesses, including several attorneys and the supervisor of his work
9 for the last six years, also demonstrate Petitioner's rehabilitation and good moral character.
10 Favorable character testimony and reference letters from employers and attorneys are entitled to
11 considerable weight. (*Feinstein v. State Bar* (1952) 39 Cal.2d 541, 547.)

12 Another consideration is the passage of an appreciable period of time since Petitioner's
13 misconduct. (*Hippard v. State Bar, supra*, 49 Cal.3d at p. 1095.) With the exception of his false
14 testimony at the October 2001 hearing regarding his abstinence from alcohol, the last incident of
15 reported misconduct by Petitioner occurred in 1990. For nearly thirteen years between the
16 misconduct and the time he filed this petition for reinstatement, Petitioner has conducted himself in
17 an exemplary manner in raising his son, adopting a daughter, maintaining employment and
18 participating in community service, abstaining from all drug use and controlling his alcohol intake.

19 In the supplemental statement attached to his petition for reinstatement, Petitioner
20 acknowledged that his previous reinstatement petition had been denied primarily as a result of his
21 lack of candor in the prior proceeding regarding his use of alcohol. Petitioner recognized in his
22 statement that he did not fulfill either his own personal ethical standards or the ethical standards of
23 the legal profession. Petitioner acknowledged that, after his prior reinstatement petition was denied,
24 he engaged in "a period of reflection, much soul-searching and some remorseful grieving." In this
25 Court's view, Petitioner's remorse and recognition of wrongdoing is genuine. Petitioner has been
26 candid in this proceeding about his continued occasional consumption of alcohol.

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on February 25, 2004, I deposited a true copy of the following document(s):

DECISION

in a sealed envelope for collection and mailing on that date as follows:

- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

DORON WEINBERG
523 OCTAVIA ST
SAN FRANCISCO CA 94102

- [X] by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

WONDER LIANG, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **February 25, 2004**.


George Hue
Case Administrator
State Bar Court